

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARLAND BROOKS,

Plaintiff,

Case # 14-CV-6690-FPG

v.

DECISION AND ORDER

GREGORY MULLEN et al.,

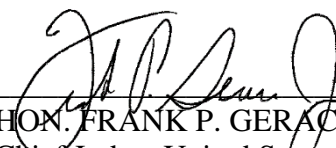
Defendants.

On November 13, 2017, *pro se* Plaintiff Marland Brooks moved to appoint counsel. ECF No. 25.¹ There is no constitutional right to appointed counsel in civil cases, although the Court may appoint counsel to assist indigent litigants pursuant to 28 U.S.C. § 1915(e). *See, e.g., Sears, Roebuck & Co. v. Charles Sears Real Estate, Inc.*, 865 F.2d 22, 23 (2d Cir. 1988). The Court must carefully consider whether to appoint counsel, because “every assignment of a volunteer lawyer deprives society of a volunteer lawyer available for a deserving cause.” *Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989). The Court must consider several factors, including whether the indigent’s claims seem likely to be of substance. *See Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997); *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986).

Here, it is unclear whether Plaintiff’s claims are likely to be of substance because this case is in the early stages of litigation. Defendants just answered Plaintiff’s Complaint on October 31, 2017, and no discovery has occurred. A scheduling conference is set for December 13, 2017 before Magistrate Judge Jonathan W. Feldman. Therefore, Plaintiff’s Motion to Appoint Counsel (ECF No. 25) is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Dated: November 20, 2017
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge, United States District Court

¹ Plaintiff also moved to appoint counsel on December 15, 2016 (ECF No. 13) and the Court denied that motion (ECF No. 14).